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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/427,388	10/26/1999	KEVIN LLOYD GRIMES	RCA-89.086	3105

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EXAMINER	
HARPER, KEVIN C	
ART UNIT	PAPER NUMBER
2616	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/427,388	GRIMES ET AL.	
	Examiner	Art Unit	
	Kevin C. Harper	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 April 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3 and 10-12* is/are rejected.

7)☒ Claim(s) *4-9* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Arguments

Applicant's arguments filed April 10, 2008 have been fully considered but they are not persuasive.

1. Applicants argued that Eyer does not disclose an adaptive protocol decoder. However, the decoder of Eyer is adaptive because it can change decoding between analog and digital processing (fig. 2) and change decoding between different receive paths (i.e., satellite, cable, terrestrial).

2. Applicants argued that Eyer in view of applicant's admitted prior art ("AAPA") does not teach, suggest, or provide motivation for different first and second transport protocols. However, AAPA does provide a teaching of the state of the art that different transport protocols are used for video (page 2, lines 20-23). AAPA also notes that multiple sources having different transport formats are made available to be received (page 1, lines 20-26). AAPA provides motivation for combination with Eyer because the different transport protocols are disclosed as being proprietary (page 1, lines 9-18) known in the art as a preference for design choices (page 1, lines 30-32).

3. Applicant noted that in the last office action that different MPEG formats is not disclosed in the specification. This error was typographical and should have read "different transport formats" in accordance with the motivational statement that followed.

4. In response to applicants' argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5

USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Yu provides motivation for switching the operation of an electronic device as appropriate (col. 4, lines 10-17; note: switching the mode of operation from HVS to XCP for processing user data when desired by the user).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyer et al. (US 5,982,411) in view of and applicant's admitted prior art.

5. Regarding claims 1 and 11-12, Eyer discloses an adaptive transport decoder (figs. 1-2) comprising a source of a first stream of packets (item 130 or 210) each including a payload and having a first transport protocol (col. 1, lines 15-16; col. 8, lines 2-5 and 24-26; note: MPEG packets), a source of a second stream of packets (item 140 or 250), a protocol decoder (fig. 1, item 110; fig. 2, item 265; col. 7, line 65 through col. 8, line 7) coupled to the sources for extracting payloads from the packets, and a selector (fig. 2, items 275, 240 and 250) having input terminals (items 240 and 250) coupled to the first and second packet stream sources and an output terminal coupled to the protocol decoder (note: output terminal from item 240 or 250) for selectively coupling one of the first stream of sources to the decoder (col. 8, lines 35-39; col. 7, line 65 through col. 8, line 1; col. 8, lines 10-13; note: only one desired stream is sent from the demodulators to the decoder based on the user signal). Further regarding claim 11, the payloads of the packets are processed (note: standardized MPEG - col. 1, line 15). Further regarding claim 12, data from the packet header (col. 3, line 40; note: PID in header of standardized MPEG

packets) is stored in a register for later use by the decoder (col. 7, line 65 through col. 8, line 1; col. 8, lines 24-26 and 31-39; col. 4, line 56 through col. 5, line 2).

6. However, Eyer does not disclose different transport protocols for the first and second packet streams. Applicant's admitted prior art discloses that packets from different streams have different transport protocols (pages 1-2; note: ATSC for terrestrial broadcasts has a different transport format than DSS for satellite broadcasts). Therefore, it would be obvious to one skilled in the art at the time the invention was made to have different transport protocols in the invention of Eyer in order to provide data as related to the communication medium or by preference, as is known in the art (specification, page 1, note: prior-art proprietary transport formats).

Claims 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyer et al. in view of applicant's admitted prior art, as applied to claim 1 above, and further in view of Yu (US 5,410,709).

7. Regarding claims 3 and 10, Eyer discloses the adaptive protocol decoder as described in the rejection of claim 1 above. Further, the protocol processing function (item s65) switches the processing of packets between a first stream source (item 210) and a second stream source (item 215) (col. 8, lines 35-39). However, Eyer does not disclose that the digital processing function (item 265) comprises a processor. Yu discloses a processor (fig. 1, item 14) within a device (fig. 1). The processor is responsive to control programs (col. 3, lines 40-46; col. 4, lines 3-5 and 51-67). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have a processor using control programs in the processing function of Eyer in order to flexibly perform processing functions (Yu, col. 4, line 67 through col. 5, line 10; col. 3, lines 55-60).

Allowable Subject Matter

Claims 4-9 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost, can be reached at 571-272-7872. The centralized fax number for the

Patent Office is 571-273-8300. For non-official communications, the examiner's personal fax number is 571-273-3166 and the examiner's e-mail address is kevin.harper@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For more information about the PAIR system, see portal.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin C. Harper/

Primary Examiner, Art Unit 2616

July 21, 2008